

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *eg* D.C.
05 MAY 24 PM 3:10

DERRICK BROOKS,

Plaintiff,

v.

No. 04-3043 B

UNIFIRST CORPORATION, INC.,

Defendant.

ROBERT R. DI MOLIO
CLERK, U.S. DIST. CT.
WD. OF TN, MEMPHIS

ORDER TO ACCOMPLISH SERVICE OF PROCESS OR FILE
DOCUMENTATION INDICATING DEFENDANT'S WAIVER OF SERVICE

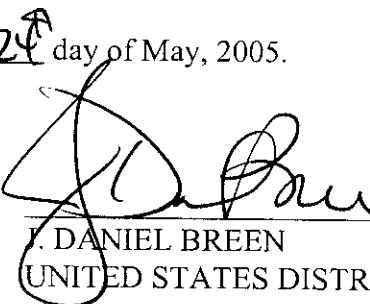
Plaintiff, Derrick Brooks, initiated this lawsuit on December 22, 2004. On May 11, 2005, the Court ordered the Plaintiff to effectuate service in accordance with Rule 4(m) of the Federal Rules of Civil Procedure because nothing in the Court's docket indicated that the Defendant, Unifirst Corporation, Inc., had been served with process or waived such service. On May 18, 2005, Plaintiff filed a response to the Court's order asserting that notice of the lawsuit and a waiver of service had been sent to the registered agent for the Defendant. However, nothing in the Plaintiff's response indicated that the Defendant has actually waived service of the summons under Rule 4(d).

Rule 4(d)(4) provides that “[w]hen the plaintiff files a waiver of service with the court, the action shall proceed . . . as if a summons and complaint had been served at the time of filing the waiver, and no proof of service shall be required.” Fed. R. Civ. P. 4(d)(4). According to the docket entries, the Plaintiff has not filed a waiver of service with the Court.¹ Accordingly, Plaintiff is given

¹ The Court notes that if the Defendant fails to comply with the request for waiver, Rule 4(d)(2) directs the Court to “impose the costs subsequently incurred in effecting service on the

an additional fifteen (15) days to proceed with service of the summons and complaint or to file documentation evidencing Defendant's waiver. Failure to accomplish service or obtain a waiver thereof may result in dismissal without prejudice of Plaintiff's claims.

IT IS SO ORDERED this 24 day of May, 2005.



J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE

defendant unless good cause for the failure [can] be shown." Fed. R. Civ. P. 4(d)(2).



Notice of Distribution

This notice confirms a copy of the document docketed as number 4 in case 2:04-CV-03043 was distributed by fax, mail, or direct printing on May 25, 2005 to the parties listed.

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Honorable J. Breen
US DISTRICT COURT